

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

DATE: OCT 25, 2005

CLERK'S MINUTES OF HEARING

HEARING BEFORE: SPECIAL MASTER VICKIE L. GABIN

CASE NAME & NUMBER: STATE OF NM V. ARAGON, 69CV07941-BB-HCE

RIO CHAMA ADJUDICATION

DATE OF HEARING: OCTOBER 14, 2005 TIME: 9:30am.

COUNSEL:

PLAINTIFFS: EDWARD G. NEWVILLE; MOVANT: WALTER L. REARDON, JR.

RESPONDENT: PETER B SHOENFELD

NOTES: RE ORDER SETTING HEARING (#8012 filed 9-12-2005)

Hearing took place as scheduled at the USDC in Santa Fe.

1) Plaintiff: described maps of properties under Subfile
CHARU-004-0044; discussed several applications to OSE
regarding transfer of water rights associated with
development of Ft Herson Preserve Subdivision; gave
brief summary of events leading to Default Judgment
filed October 11, 2004 (#7611) *

2) Movant: presented his understanding of his water
rights; explained efforts to transfer water rights
involved with the Ft Herson Preserve development;
discussed reasons why the Default Judgment (#7611)

COURT REPORTER:

CONNIE JURADO

PAUL BAKA PROFESSIONAL COURT REPORTERS

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ATTENDANCE:

SEE ATTACHED LIST

should be set aside. In regard to the motion for Rule 11 Sanctions (# 7926 filed 7-8-2005). More at described events which delayed his response to OSE and failure to appear at scheduled status conferences.*

3) Respondent: witnesses described certain documents presented regarding transferring water rights and discussed their misunderstanding and confusion about the water rights associated with properties purchased in Ft. Heron Preserve subdivision.*

* See attached list for names of witnesses and Exhibits offered.

4) The Special Master instructed the OSE to submit post-trial capacity Morant Henry G. Caser's water rights permit applications and OSE's action on these applications Re: Seebyule UHRU-004-0044.

United States District Court

DISTRICT OF

NEW MEXICO

EXHIBIT AND WITNESS LIST

STATE of New Mexico v. ARAGON, ETAL

CASE NUMBER: 69cv07941-BB-ACE

| PRESIDING JUDGE Special Master Vickie L. GABIN | | | | | PLAINTIFF'S ATTORNEY EDWARD G. NEUVILLG | DEFENDANT'S ATTORNEY MOVANTS: WALTER L. REARDON RESPONDENT'S ATTORNEY: PETER B. SHOENFELD |
|---|----------|--------------|--------|----------|---|--|
| TRIAL DATE(S) OCTOBER 14, 2005 | | | | | COURT REPORTER CONNIE JURADO | COURTROOM DEPUTY |
| PLF. NO. | DEF. NO. | DATE OFFERED | MARKED | ADMITTED | DESCRIPTION OF EXHIBITS* AND WITNESSES | |
| | | 10-14-05 | | | PLAINTIFF | |
| 1 | | " | | ✓ | Rio Chama Hydrographic Survey Map - Retheron + Plaza Blanca Section, Subfile CHRU-004-0044 | |
| 2 | | " | | ✓ | Report by OSE on Subfile CHRU-004-0044; Subfile CHRU-004-0036 & CHRU-004-0037 included | |
| 3 | | " | | ✓ | Rio Chama Hydrographic Survey Map - Retheron + Plaza Blanca Section April 30, 2002 | |
| 4 | | " | | ✓ | Rio Chama Hydrographic Survey map: Subfile CHRU-004-0044, Header A - Fort Herson Preserve Subdiv. | |
| 5 | | " | | ✓ | Order Withdrawing Protest and Remanding Application by OSE, June 10, 2002 OSE File No. 1545-0699-4656 | |
| | | " | | | MOVANT Witness: Henry G. Coars | |
| 14 | | " | | ✓ | Map of 36.3 A irrigated by laterals, admitted for limited purpose of challenging Coars' understanding his water rights | |
| 15 | | " | | ✓ | Map: overlay of Ex 14 showing planned subdivision of Fort Herson Preserve | |
| 16 | | " | | ✓ | State Engineer's Report and Recommendation of the Hearing Examiner June 27, 2001 | |
| 17 | | " | | ✓ | Coars' Application for Permit to Change Point of Decision and Place and/or purpose of use of Surface Water; signed 10-21-99 | |
| 18 | | " | | ✓ | Letter from Coars to State Engineering office - Louis O'Dell; July 13, 2001 | |
| | | " | | | RESPONDENT (Cross of) Witness Coars | |
| 1 | | " | | ✓ | Letter from Schoenfeld to Coars mailed to his address Sept 24, 2001; Certified mail; 3 recs. receipts attached | |
| 2 | | " | | ✓ | Letter from Coars to Schoenfeld October 3, 2001 | |
| 3 | | " | | ✓ | Receipt for letter to Coars by Certified mail Sept 21, 2001 Receipt signed by employee of Escaper's Supply 92 W. 2nd St. | |
| 4 | | " | | ✓ | Water Service Agreement Sept 3, 1999, Coars and Retheron | |
| 5 | | " | | ✓ | Warranty Deed, Sale of Lot C Ft Herson Preserve Subdiv to Padilla, November 7, 2000 | |
| 6 | | " | | ✓ | Warranty Deed, Sale of Lot B Ft Herson Preserve Subdiv to Andrews December 7, 1994 | |
| 7 | | " | | ✓ | Warranty Deed, Sale of Lot D Ft Herson Preserve Subdiv to Andrews July 12, 1995 | |
| 8 | | " | | ✓ | Warranty Deed, Sale of Lot F Ft Herson Preserve Subdiv to Andrews October 15, 2003 | |
| 9 | | " | | ✓ | Letter from Coars to Andrews, French, Moore June 28, 2002 | |

* Include a notation as to the location of any exhibit not held with the case file or not available because of size.

EXHIBIT AND WITNESS LIST - CONTINUATION

| STATE OF New Mexico vs. ARAGON, et al. | | | | | CASE NO. 69CV07941-AB-ACG |
|--|----------|--------------|--------|----------|--|
| PLF. NO. | DEF. NO. | DATE OFFERED | MARKED | ADMITTED | DESCRIPTION OF EXHIBITS AND WITNESSES |
| | | 10-14-05 | | | RESPONDENT (CONTINUED CROSS OF WITNESS COORS) |
| | 10 | " | | ✓ | Letter from Coors to Andrews June 11, 1998 |
| | 11 | " | | ✓ | Letter from Coors to Andrews July 19, 2001 |
| | 12 | " | | ✓ | USPS FAX to Jackson Masterson October 6, 2005 MOVANT: NO objection of admitted subject to fact witness stated had not seen this before |
| | | " | | | PLAINTIFF (Cross of Witness Coors) |
| 6 | | " | | ✓ | Application for Permit to Change Place or Purpose of Use of Surface Waters by Coors November 30, 1998 |
| | | " | | | PLAINTIFF Witness: James McNeese |
| 7 | | " | | ✓ | Map: Water Plant for Henry G Coors |
| 8 | | " | | ✓ | OSE Report and Recommendation of the Hearing Examined OSE file No 1545-1699 June 27, 2001 |
| | | " | | | PLAINTIFF Witness: Arianna Singer |
| | | | | | RESPONDENT Witness: Dianna Andrews |
| 13 | | " | | | Withdrawn (Water Rights Deed previously submitted Aug 20, 2002 as Exh. 13 with Motion 7901) |
| 14 | | " | | ✓ | Letter from Coors to Andrews October 26, 1998 |
| | | " | | | MOVANT (Cross of Witness) Dianna Andrews |
| 19 | | " | | ✓ | Confirmation of Agreement signed by Timothy and Dianna Andrews January 10, 1998 |
| | | " | | | RESPONDENT Witness: Steve Padilla |
| | | " | | | RESPONDENT Witness: Timothy Andrews |
| | | " | | | MOVANT Witness: Coors recalled to Stand |
| | | " | | | RESPONDENT (Re-Cross of Witness Coors) |
| | | " | | | PLAINTIFF (Re-Cross of Witness Coors) |
| | | | | | Special Master Hobin instructed OSE attorney to submit post-trial copies of Mt. Henry G. Coors' water Right Permit applications and OSE's actions on the applications Re: Subject No CHRU-004-0044 |

CHAMA ADJUDICATION

State of New Mexico ex rel. State Engineer v. Aragon, 69cv07941-BB-ACE
Evidentiary Hearing: Subfile No. CHRU-004-0044

Friday, October 14, 2005

ATTENDANCE

Please Print

| NAME | ADDRESS | ZIP CODE | TELEPHONE |
|---------------------|----------------|----------------|--------------------|
| Dianna Andrews | Hc75, Box 1233 | RUTHERAN, N.M. | 87551 505-588-0443 |
| Tim Andrews | Hc75 Box 1233 | RUTHERAN, NM | 87551 505-588-0443 |
| STEVE PADILLA | Hc75 Box 1228 | RUTHERAN NM | 87551 |
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